

## PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated February 19, 2016, which held that the appellant was not eligible for a moving supplement under section 55 of the *Persons with Disabilities Regulation* (EAPWDR). Although the Ministry determined the appellant had no resources available to cover the costs of the move and therefore met the requirement of section 55(3), the Ministry held the appellant did not satisfy any of the requirements of section 55(2) because:

- He did not provide information to support the contention that he moved to a different town in BC to begin work, and he did not provide information to indicate that he would be earning in excess of \$800 per month and therefore the Minister was not satisfied the part-time employment would significantly promote the appellant's financial independence such that section 55(2)(a) did not apply;
- He was requesting to move within the same province and therefore section 55(2)(b) did not apply;
- He did not provide information that his accommodation was being sold, demolished or condemned, therefore section 55(2)(c) did not apply;
- He was not requesting to move to an adjacent community therefore section 55(2)(d) did not apply; and
- He did not identify any imminent threat to his physical safety, therefore section 55(2)(e) did not apply.

## PART D – Relevant Legislation

*Employment and Assistance for Persons With Disabilities Regulation*, s. 55 ("EAPWDR")

## PART E – Summary of Facts

### Information before the Ministry at reconsideration

On January 14, 2016, the appellant contacted the Ministry to request a moving supplement, for a February 1, 2016 move to a town in another part of British Columbia, located approximately 286 km away from his current residence (the “initial residence”). On February 4 the appellant submitted written estimates for the move and advised the Ministry he was required to move because hydro and gas had been turned off at his initial residence. On February 12 the Ministry informed the appellant that he did not meet the eligibility requirements for a move under section 55 of the EAPWDR. On February 15 the appellant contacted the ministry and indicated that his rent would be lower at his new residence but the ministry replied that his request was denied because the new location was not in a community adjacent to the initial residence. On February 17, 2016 the appellant requested reconsideration of the Ministry’s decision.

Documents before the Ministry at reconsideration included the following:

- The appellant’s request for reconsideration in which he stated the move “does significantly reduce my living cost because my utilities are included” and that he “made the move because I was hired at the farm with part-time employment”;
- A letter from a farm operator, dated February 16, 2016, indicating that the appellant “is now employed part-time of my farm and will continue to be for the foreseeable future”;
- A typed quote from a professional moving company in the amount of \$1,760.00 including taxes;
- An email moving quote from a professional moving company in the amount of \$1,680-\$1,980 plus GST;
- A handwritten moving quote from an individual in the amount of \$960.00;
- A rental agreement for the appellant’s tenancy beginning June 1, 2015 indicating a rent of \$500.00 per month and that utilities were not included in the rent; and
- A shelter information form, with a start date of February 1, 2016, indicating a rent of \$550.00 per month and that utilities were included in the rent.

### Information provided on appeal

With his notice of appeal, the appellant included a “personal statement,” dated February 29, 2016, in which he stated that he felt he met the criteria for a moving supplement in section 55(2)(a) of the EAPWDR because, though small, any employment and reduction in his shelter costs significantly promotes his financial independence and living circumstances. He stated that he had told the Ministry his power had been cut off. He also said his water pipes froze and he had no heat, putting him in imminent danger. The notice of appeal attached a letter, dated February 29, 2016, (the “February 29 farm letter”) from the same farm operator who wrote the letter before the Ministry at reconsideration. The February 29 farm letter states that the farm operators had suggested the appellant move to their area because “there are more opportunities for re-training and employment,” that they offered the appellant “part-time work on our farm, ½ hour per day helping to water livestock, paying \$100 per month,” and that the job was offered in December 2015.

The Ministry relied on the reconsideration summary provided in the Record of Ministry Decision.



The panel admitted the additional information about the appellant's pipes freezing and having no heat and the information in the February 29 farm letter under s. 22(4) of the *Employment and Assistance Act* as information in support of the information available at reconsideration. The information substantiates the previous information that hydro and gas providers had cut off services to the appellant, and that the appellant had a part-time job lined up at his new residence.

## PART F – Reasons for Panel Decision

### Issue on appeal

The issue is whether the Ministry's decision to deny the appellant a moving supplement under section 55 of the EAPWDR because the appellant did not satisfy any of the requirements of section 55(2) is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation: the EAPWDR

### **Supplements for moving, transportation and living costs**

**55** (1) In this section:

"**living cost**" means the cost of accommodation and meals;

"**moving cost**" means the cost of moving a family unit and its personal effects from one place to another;

"**transportation cost**" means the cost of travelling from one place to another.

(2) Subject to subsections (3) and (4), the minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance to assist with one or more of the following:

- (a) moving costs required to move anywhere in Canada, if a recipient in the family unit is not working but has arranged confirmed employment that would significantly promote the financial independence of the family unit and the recipient is required to move to begin that employment;
- (b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;
- (c) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area because the family unit's rented residential accommodation is being sold or demolished and a notice to vacate has been given, or has been condemned;
- (d) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move;
- (e) moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit;
- (f) transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the [Child, Family and Community Service Act](#), if a recipient is given notice of the hearing and is a party to the proceeding;
- (g) transportation costs, living costs, child care costs and fees resulting from
  - (i) the required attendance of a recipient in the family unit at a hearing, or
  - (ii) other requirements a recipient in the family unit must fulfil in connection with the exercise of a maintenance right assigned to the minister under section 17 [*assignment of maintenance rights*].

(3) A family unit is eligible for a supplement under this section only if

- (a) there are no resources available to the family unit to cover the costs for which the supplement may be provided, and
- (b) a recipient in the family unit receives the minister's approval before incurring those costs.

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- (4) A supplement may be provided under this section only to assist with
- (a) the cost of the least expensive appropriate mode of moving or transportation, and
  - (b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate living costs.

[am. B.C. Reg. 275/2004, s. 2.]

### The Panel's Decision

An applicant for a moving supplement must meet the requirements of section 55(3) and must meet one or more of the conditions in section 55(2). The Ministry held the appellant met the requirement of section 55(3). (Subsections 55(2)(f) and (g) were not raised before the Ministry or on appeal and are not applicable to this case.)

For section 55(2)(a) to apply the appellant must be moving within Canada, not be working at the time of the move, have arranged confirmed employment that would significantly promote his financial independence, and need to move to begin that employment. There was no indication in the record before the Ministry at reconsideration about whether the appellant had been working while living at his initial residence. Nevertheless, the panel notes that the appellant raised for the first time at reconsideration that the purpose of his move was to begin work. Further, the letter from the farm operators that was before the Ministry did not specify rate of pay or how many hours the appellant would work. The Ministry reasoned that, in order for the confirmed employment at the new location to significantly promote financial independence, the appellant would have to earn more than the \$800 earnings exemption (at least \$801 per month) such that his earnings would reduce the amount of income assistance he received from the Ministry. While the February 29 farm letter does clarify that the farm operators suggested the appellant moved and offered him the job well in advance of his request for a moving supplement, the rate of pay (\$100 per month) falls well short of promoting the appellant's financial independence, in particular when considering the \$800 earning exemption. While the extra \$100 per month earned by the appellant may, as he suggests, improve his living circumstances, the panel finds that the Ministry reasonably determined that an earned amount under \$801 would not significantly promote his financial independence because it would do nothing to reduce his dependence on income assistance. Therefore the Ministry reasonably determined the appellant does not meet the requirements of this subsection.

For section 55(2)(b) to apply the appellant must be moving to another province or country to improve his circumstances. As the Ministry noted in its reconsideration decision, the appellant is moving to another part of British Columbia, not another province or country. Therefore, the Ministry reasonably determined that the appellant does not meet the requirements of this subsection.

For section 55(2)(c) to apply the appellant must be moving within the same municipality or unincorporated area or to an adjacent one because his accommodation is being sold or demolished and he has received a notice to vacate, or because his accommodation has been condemned. The appellant provided no information to the Ministry to indicate his residence was being sold, demolished or condemned. Additionally, as the Ministry noted under its assessment of section 55(2)(d), the appellant's proposed move was to a town that is not within the same municipality or unincorporated area, and not to an adjacent town. For these reasons, the panel finds the Ministry reasonably determined the appellant does not meet the requirements of this section.

For section 55(2)(d) to apply the appellant must be moving within the same municipality or unincorporated area or to an adjacent one, and his shelter cost must be significantly reduced as a result of the move. While the Ministry accepted the appellant's total shelter costs including utilities would be significantly reduced as a result of the move, the evidence before the Ministry showed the appellant was moving to another part of British Columbia approximately 286 km away, not within the same or an adjacent community. Accordingly, the panel finds the Ministry reasonably determined the appellant does not meet the requirements of this section.

For section 55(2)(e) to apply the appellant must be moving to another area in British Columbia to avoid an imminent threat to his physical safety. The appellant suggests that the fact that his water pipes froze and he had no heat at his initial residence puts him in "imminent danger." However, the appellant did not identify any threat to his physical safety to the Ministry, and there is no documentation that was before the Ministry to support his assertions on appeal. According to the record before the Ministry, the appellant first raised the issue of his gas and hydro being cut off on February 4, 2016, after his scheduled move date. There was no documentation in the record from service providers that his gas and hydro were shut off in a matter forcing the appellant to move, as opposed to being shut off as a result of a disconnection request made by the appellant himself because he had chosen to move. Further, there was no evidence that the appellant could not have had these services reconnected. As a result, the panel finds the Ministry reasonably determined that the appellant had not identified any imminent threat to his physical safety and thus does not meet requirements of section 55(2)(e).

### Conclusion

An applicant for a moving supplement must meet one or more of the conditions in section 55(2). As discussed above, the Panel finds the Ministry reasonably determined that the appellant has not met any of the requirements of section 55(2). Therefore, the panel finds that the Ministry decision that the appellant is not eligible for a moving supplement is a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the Ministry's reconsideration decision.